

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

JOANNA DANUTA MARUSZAK Plaintiff, v. DARIUSZ ROBERT MARUSZAK Defendant) MOTION FOR) EXTENSION OF TIME) TO SERVE DEFENDANT) DARIUSZ ROBERT) MARUSZAK IN) POLAND)) Civil Action No.
--	---

08-CV-3978 (GEL)

ECF CASE

Plaintiff Joanna Danuta Maruszak, upon the attached Affirmation of Ivo George Caytas, Esq. of August 12, 2008, and upon all proceedings in this case to date, respectfully moves this Court for an Order extending by 120 days (*i.e.*, from August 26, 2008 until December 24, 2008) the statutory time of 120 days to serve upon the defendant Dariusz Robert Maruszak in Poland a copy of the Summons and Complaint in this matter, and for such other and further relief as this Court may deem just and proper.

Therefore, Service pursuant to the Hague Convention On The Service Abroad Of Judicial and Extrajudicial Documents in Civil and Commercial Matters, 20 U.S.T. 1361, 658 U.N.T.S. 163, T.I.A.S. No. 6638, 16 I.L.M. 1339 (1977), 28 U.S.C.A. (Appendix following Rule 4 Fed R. Civ. Proc) (the "Hague Service Convention") was the only proper method available to effect service upon the defendant Dariusz Robert Maruszak. The service agent of the U.S. Central Authority under the Hague Service Convention has advised plaintiff upon inquiry that the Polish authorities may take up to six months to return proof of service.

The Complaint was filed on April 28, 2008 and the statutory period of 120 days for service will expire on August 26, 2008.

This motion is made *ex parte* because the defendant Dariusz Robert Maruszak has not acknowledged service and has not otherwise appeared in this action to date.

NO PRIOR RELIEF OF THE NATURE SOUGHT HEREWITH HAS BEEN REQUESTED.

Respectfully submitted,

Dated: August 12, 2008

By: 
Ivo George Caytas
NYS Attorney Reg. No. 245858
CAYTAS & ASSOCIATES
146 West 57th Street, 57th Floor
New York, New York 10019
(917) 805-4120

Attorney for the Plaintiff

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOANNA DANUTA MARUSZAK	Plaintiff) AFFIRMATION IN
v.) SUPPORT OF MOTION
DARIUSZ ROBERT MARUSZAK	Defendant) FOR EXTENSION OF
) TIME TO SERVE
) DEFENDANT DARIUSZ
) ROBERT MARUSZAK IN
) POLAND
) Civil Action No.
)
		08-CV-3978 (GEL)

ECF CASE

IVO GEORGE CAYTAS, aware of the penalties of perjury, deposes and says:

1. I am the attorney for the plaintiff in this action. I have personal knowledge of the facts stated herein, and the stated facts are true and correct.
2. As a member of the bar and as an officer of this Court, I make this affirmation in support of an *ex parte* motion to extend time for service of the summons and complaint upon the defendant Dariusz Robert Maruszak at his place of business ul. Gornicza 88/1, 50-136 Wroclaw, Poland.
3. On April 28, 2008 I commenced this action by filing a verified complaint.
4. Service in Poland has to be made in accordance with the Hague Convention On The Service Abroad Of Judicial and Extrajudicial Documents in Civil and Commercial

Matters, 20 U.S.T. 1361, 658 U.N.T.S. 163, T.I.A.S. No. 6638, 16 I.L.M. 1339 (1977), 28 U.S.C.A. (Appendix following Rule 4 Fed R. Civ. Proc) (the “Hague Service Convention”).

5. Service by the Hague Service Convention is necessary to meet proper service requirements under Polish law in order to enforce a judgment against the defendant in this matter in Poland and elsewhere.
6. Pursuant to the Hague Service Convention, a certified translation into the Polish language must be provided together with the Summons and Complaint for international judicial assistance to be granted. I have provided such a translation.
7. I have forwarded the Summons, Complaint and certified translations in accordance with the requirements of the Hague Service Convention to the agent of the U.S. Central Authority, Process Forwarding International, 910 Fifth Avenue, Seattle, WA 98104. I was advised that return of proof of service may take up to six months.
8. The statutory period of 120 days for service of the Summons and Complaint upon the defendant will expire on August 26, 2008.
9. I have been advised by affidavit of Rick Hamilton, the agent of the U.S. Central Authority, Process Forwarding International, 910 Fifth Avenue, Seattle, WA 98104, that proof of completed service in Poland has not been received to date from the Polish authorities. *See Exhibit A hereto.*

10. In order to be able to complete service by way of international judicial assistance pursuant to the Hague Service Convention, I must therefore respectfully move this Court for another 120-day extension of time for service until December 24, 2008.

11. This motion is made *ex parte* because the defendant Dariusz Robert Maruszak has not been served to date.

12. PRIOR APPLICATION HAS NOT BEEN MADE FOR THE RELIEF REQUESTED HEREIN.

WHEREFORE, plaintiff respectfully requests that this petition be granted and that plaintiff may have such other and further relief as may be just and proper.

Dated: August 12, 2008


Ivo George Caytas
NYS Attorney Reg. No. 245858
CAYTAS & ASSOCIATES
146 West 57th Street, 57th Floor
New York, New York 10019
(917) 805-4120

Attorney for Plaintiff

EXHIBIT A: Affidavit of Rick Hamilton dated August 11, 2008

EXHIBIT B: Form of Order

EXHIBIT A:
Affidavit of Rick Hamilton dated August 11, 2008

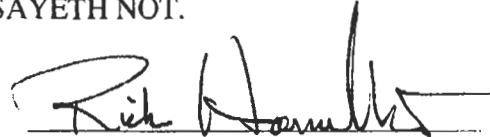
STATE OF WASHINGTON)
) ss.:
CITY OF SEATTLE)

AFFIDAVIT

Rick Hamilton, being duly sworn, deposes and states as follows:

1. My name is Rick Hamilton. I am of full age. I reside and maintain an office in Washington State.
2. I am the director of operations at Process Forwarding International and ABC Legal Services, Inc.
3. Effective June 1, 2003, Process Forwarding International and ABC Legal Services, Inc. began a 5-year contract to perform the duties as Central Authority for the United States Department of Justice under Contract # 03-C-0655. On the behalf of the United States Department of Justice, PFI manages all formal service of process for the United States on judicial documents under the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil and Commercial Matters (the "**Hague Service Convention**".)
4. At the instruction of IVO GEORGE CAYTAS, Esq., attorney for plaintiff JOANNA DANUTA MARUSZAK dated April 28, 2008, we caused service in accordance with the Hague Service Convention to be made upon defendant DARIUSZ ROBERT MARUSZAK at his registered residential address (ul. Gurnicza 88/1, 50-136 Wroclaw, Poland) through the Central Authority of Poland, of the following documents in the matter of *Maruszak v. Maruszak et al.*, 08-cv-3978 in the Southern District of New York:
 - (1) Federal Summons
 - (2) Verified Complaint
 - (3) Verified Translation into Polish of (1) Federal Summons
 - (4) Verified Translation into Polish of (2) Verified Complaint
5. The Central Authority of Poland under the Hague Service Convention is the Ministry of Justice, which will effect service in accordance with Polish law through the local court of competent jurisdiction.
6. To this date, a certificate of service has not yet been received from the Polish authorities and a motion to extend time to serve appears warranted.

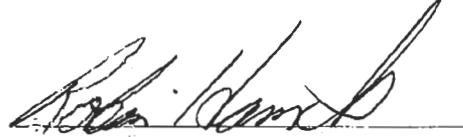
FURTHER AFFIANT SAYETH NOT.



Rick Hamilton

Sworn to and subscribed before me this

11th day of August 2008



John [Signature]

Notary Public

[SEAL]

My commission expires:

3/30/2011

EXHIBIT B:
Form of Order

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOANNA DANUTA MARUSZAK) ORDER FOR
Plaintiff,) EXTENSION OF TIME TO
v.) SERVE DEFENDANT
DARIUSZ ROBERT)
MARUSZAK IN POLAND
DARIUSZ ROBERT MARUSZAK)
Defendant) Civil Action No.
)
08-CV-3978 (GEL)

ECF CASE

The Plaintiff having duly moved this Court for an Order extending time to serve a copy of the Summons and Complaint pursuant to the Hague Convention On The Service Abroad Of Judicial and Extrajudicial Documents in Civil and Commercial Matters, 20 U.S.T. 1361, 658 U.N.T.S. 163, T.I.A.S. No. 6638, 16 I.L.M. 1339 (1977) (the "Hague Service Convention") through appropriate judicial authorities of the Republic of Poland upon the defendant, Dariusz Robert Maruszak, and plaintiff's said motion having been duly submitted to the Court, and

Upon reading and filing the affirmation of Ivo George Caytas, Esq., principal of Plaintiff *pro se* Caytas & Associates in support of Plaintiff's motion and the matter having been duly submitted to the Court for a decision, and after due deliberation having been had thereon,

NOW, upon motion of Plaintiff Joanna Danuta Maruszak, it is

ORDERED that time to complete service pursuant to the Hague Service Convention with international judicial assistance by the Polish authorities, and to file proof of service with the Clerk's office of this Court be, and it hereby is extended for an additional 120 days until December 24, 2008.

Dated: _____, 2008

Gerard E. Lynch, U.S.D.J.